

August 8, 2003
DECISION AND ORDER
OF THE DEPARTMENT OF ENERGY

Appeal

Name of Petitioner: William D. Hooker

Date of Filing: July 10, 2003

Case Number: TFA-0036

This Decision and Order concerns an Appeal that William D. Hooker filed from a determination issued to him by the Savannah River Operations Office (Savannah River). In this determination, Savannah River responded to Mr. Hooker's request for information under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, as implemented by the DOE in 10 C.F.R. Part 1004. The FOIA generally requires that documents held by the federal government be released to the public on request. This Appeal, if granted, would require Savannah River to conduct another search for responsive documents.

In his request, Mr. Hooker sought a copy of documents identifying the amount of Antimony, Antimony 125 and Antimony 145 released into any of 17 bodies of water during the period from January 1, 1992 through December 31, 1999. In its response, Savannah River informed Mr. Hooker that it was unable to locate any documents that are responsive to Mr. Hooker's request. In his Appeal, Mr. Hooker challenges the adequacy of the search that was performed.

We have stated on numerous occasions that a FOIA request deserves a thorough and conscientious search for responsive documents, and we have not hesitated to remand a case where it is evident that the search conducted was in fact inadequate. *See, e.g., Butler, Vines and Babb, P.L.L.C.*, 25 DOE ¶ 80,152 (1995). The FOIA, however, requires that a search be reasonable, not exhaustive. "[T]he standard of reasonableness which we apply to agency search procedures does not require absolute exhaustion of the files; instead, it requires a search reasonably calculated to uncover the sought materials." *Miller v. Department of State*, 779 F.2d 1378, 1384-85 (8th Cir. 1985); *accord Weisberg v. Department of Justice*, 745 F.2d 1476, 1485 (D.C. Cir. 1984). In cases such as these, "[t]he issue is not whether any further documents might conceivably exist but rather whether the government's search for responsive documents was adequate." *Perry v. Block*, 684 F.2d 121, 128 (D.C. Cir. 1982).

In order to determine whether the search conducted was adequate, we contacted Savannah River and Westinghouse Savannah River Corporation (WSRC), the DOE's Management and Operations contractor for the Savannah River site. We were informed that Savannah River searched its records and located no

information responsive to Mr. Hooker's request. It then referred the request to WSRC, whose search of all of its business units was similarly unproductive. *See* memoranda of telephone conversations between Robert Palmer, OHA Staff Attorney, and Pauline Connor, Savannah River and Adrian Smith, WSRC, on July 15 and August 6, 2003, respectively. Based on the foregoing, we conclude that remanding this matter for an additional search would not produce any responsive documents, and that Savannah River's search was adequate. We will therefore deny his Appeal.

It Is Therefore Ordered That:

- (1) The Appeal filed by William D. Hooker in Case No. TFA-0036 is hereby denied.
- (2) This is a final order of the Department of Energy from which any aggrieved party may seek judicial review. Judicial review may be sought in the district in which the requester resides or has a principal place of business, or in which the agency records are situated, or in the District of Columbia.

George B. Breznay
Director
Office of Hearings and Appeals

Date: August 8, 2003